



GRANTS & PROCUREMENT

How They Work Together

Presented by:

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Chief of Procurement

Dept. of Budget & Management

- State employee for 29 Years
 - 4 years with Dept. of Human Resources
 - 17 years with Dept. of Health & Mental Hygiene
 - 8 years with Dept. of Budget & Management
- 21 Years of Procurement Experience

Dept. of Budget & Management

- DBM responsible for **annual average** of about:
 - \$1 Billion in Direct procurement of services and information technology contracts
 - \$1Billion in Indirect procurement of services and information technology contracts entered into by other State agencies
 - 25% of the dollar value of State procurements

INCOMING GRANTS VS. OUTGOING GRANTS

- Two types of Grants
 - Incoming
 - Source of funds to State agencies
 - Outgoing
 - Means for agencies to **award/subaward** funds to other entities

DISTRIBUTION (OUTGOING)

GRANT

- Per COMAR 21.01.02.01 B (46)
 - “Grant means the bestowing of a power, money, privilege, property, or other item of value that may be conditional, although without other consideration, by the state upon another party. Grants are identified specifically by formula or specific allocation in law or in the annual operating budget act, bond authorizations, or other acts of the legislature. A grant as defined here is not a contract for purposes of this title.”

DISTRIBUTION (OUTGOING) GRANT

- “PASS THROUGH” GRANT
 - Common term for a Grant as per the COMAR definition
- There is no procurement involved with a pass-through grant
 - Pass through grants & procurement are mutually exclusive
 - Refer to OMB Circulars
 - **A-133 Sub Part B .210 & A-87 B.8**
 - **Federal Guidelines detailing Procurements vs. Grant Award documents**

DISTRIBUTION (Outgoing) GRANT

(Cont'd)

- A procurement is conducted to determine
 - What vendor (who) will have the right to perform
 - How much that vendor will be paid
 - Possible aspects such as time frames & particulars
- A pass-through grant already determines who & how much & generally what is to be done
 - This is why no procurement is needed

INCOMING GRANTS FOCUS

This training focuses on **Incoming** grants which:

1. Require the purchase of goods or services from a **non-agency source** to help achieve the grant purpose
 - The State agency receiving the grant cannot do everything itself related to the grant purpose
 - Non-agency Sources can include:
 - Private, for-profit entities
 - Private, not-for-profit entities
 - Other Maryland State agencies
 - Maryland local government agencies
 - Any other type of government entity

INCOMING GRANTS FOCUS (Cont'd)

This training focuses on **Incoming** grants which:

2. Do not have a means that is **exempt** from the State's procurement regulations to determine how **all** the needed goods or services will be obtained

- **Exemptions** include:
 - Agreements with any government entity
 - When specific laws or regulations exist that detail how funds can be distributed
 - Specific agency exemptions or exemptions for a particular purpose

PROCUREMENT:

To Do, or Not To Do!

- If a total exemption exists there is no need to do “a Procurement”
- For anything for which there is not an exemption, there must be “a Procurement”

PROCUREMENT: What Is It?

- Maryland procurement regulations include many different **procurement methods**
- The usual connotation for “a Procurement” is a fully advertised, fully competitive situation
- Typical competitive procurement methods
 - Competitive Sealed Bidding
 - Competitive Sealed Proposals

Typical Competitive Procurement Methods

- Sealed Proposals procurements
- Procurements that require BPW approval
 - BPW approval required for contracts:
 - Over \$200,000
 - Over \$50,000 if only 1 response is received
 - Usually take 3-4 months to complete
- Sealed Bid procurements that don't need BPW approval
 - Can be done in about 2 months

Typical Competitive Procurement Methods

- 3-4 months timeframe is for the procurement process only
- Does not include time to prepare the specifications
- No minimum timeframes to prepare specs.
 - Can be done in a few days
 - Seldom is, however
- Typically takes month or more

Typical Competitive Procurement Methods

- 6 to 9 months
 - Most typical timeframe for all parts of procurement process
 - Includes preparation of specifications
 - Procurement process
 - All approvals, including BPW

Overview Course for Integrated Project Management (IPM)

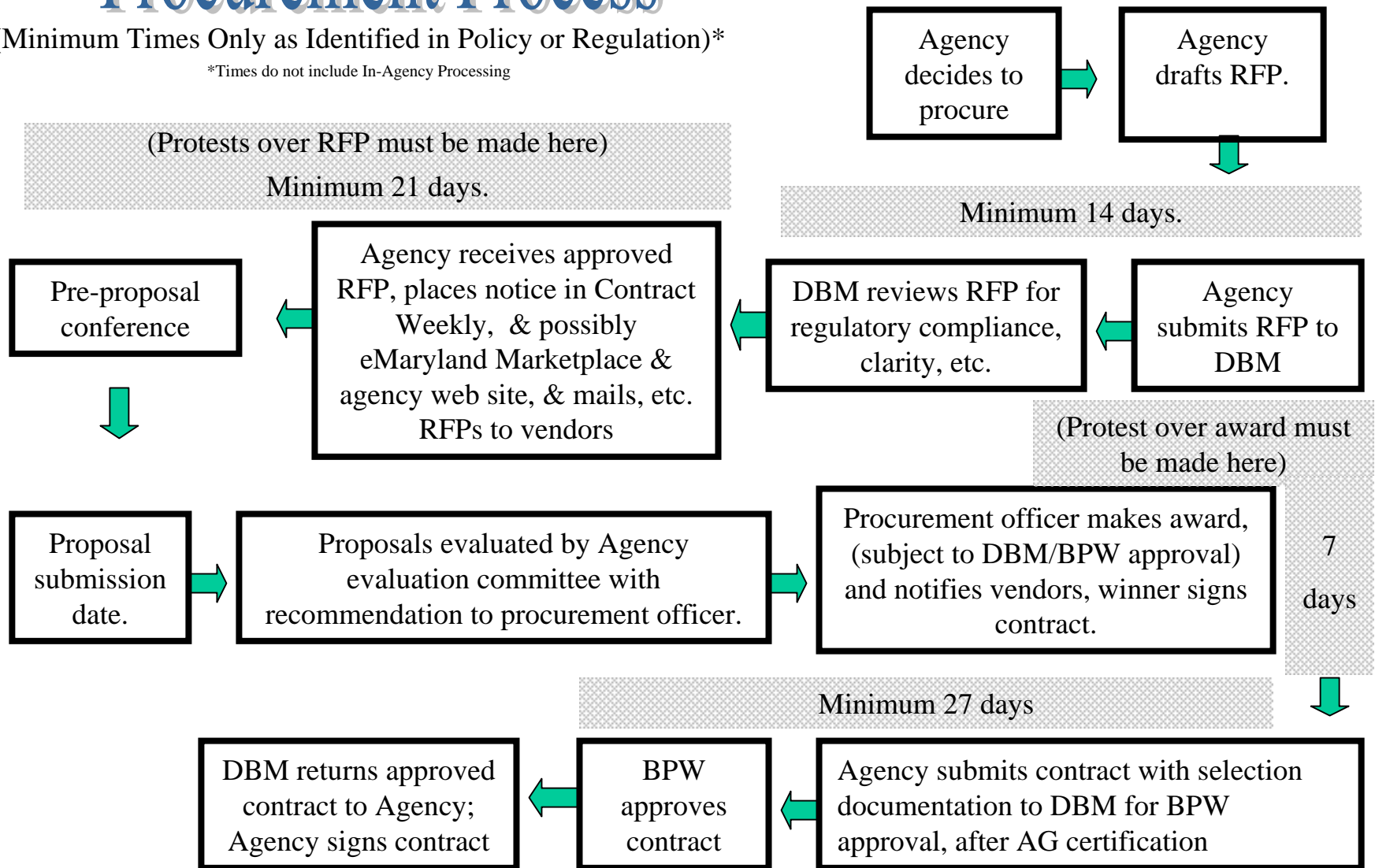
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Procurement Process

(Minimum Times Only as Identified in Policy or Regulation)*

*Times do not include In-Agency Processing



DBM = Department of Budget and Management
RFP = Request for Proposal

BPW = Board of Public Works
AG = Attorney General

Comparison of Procurement Methods & Dollar Range Timeframes (* with MBE)

PROC. METH.	AMT. FR.	AMT. TO	MIN TIME	REASON MIN	REASON MAX
SMALL	\$1	\$2,500	1	1	3
SMALL	\$2,501	\$10,000	1	3	10
SMALL	\$10,001	\$25,000	3 Work	7 / 21*	14 / 28*
CSB	\$25,001	\$200,000	39 / 53 *	66 / 80 *	86 / 100 *
CSP	\$25,001	\$200,000	39 / 53 *	96 / 110*	116/ 130*
CSB	\$200,001	Unlimited	66 / 80 *	104 /118*	146 /160*
CSP	\$200,001	Unlimited	66 / 80 *	131 /145*	213 ¹⁷ /227*

PROCUREMENT: What Is It?

- The usual connotation for “a Procurement” is a fully advertised, fully competitive situation
 - However, Maryland procurement regulations include many different types of procurement methods
 - Other available methods will be examined in this training
 - Focus will be on selecting the procurement methods with the best combination of:
 - **Satisfying the objective of the incoming grant**
 - **Minimizing the expenditure of time and effort**
 - **Maximizing the benefit received for the grant funding**

If Not Exempt, Procurement Rules Apply

- Need approval of control agency over any delegation level
- Need approval of BPW over threshold levels
 - Usually \$200,000
 - \$100,000 for sole source under DBM authority
 - \$50,000 for SS under other agency
 - \$50,000 if only 1 bid received

If Not Exempt Procurement Rules Apply (Cont'd)

- Need to advertise procurement opportunity if doing competitively
 - In Contract Weekly
 - In e-Maryland Marketplace
 - Web site
 - Direct solicitations
- Must advertise award for any method over \$25,000

If Not Exempt Procurement Rules Apply (Cont'd)

- Need legally sufficient contract
 - Must contain many standard clauses
- Always need to consider MBE subcontracting situations
- Even applies for some exempt situations

INCOMING GRANT FUNDING SOURCES

- Most typical types of incoming (funding) grants
 - Federal government
 - By far the largest grant source - \$5.5 billion to State Agencies
 - Private Foundations
 - Other sources

FUNDING SOURCE GRANT

- The source of funds is largely irrelevant in terms of whether a procurement must be done
 - As long as funds are in the possession of the State, State law & regulations govern the disbursement of those funds (OMB Circular A-102 2.1)
 - Generally this means a procurement must be conducted
 - Exception:
 - In case of conflict between the conditions of a grant & State procurement regulations, the conditions of the grant prevail

Grant Conflicts

- There must be an actual conflict
 - In this case it's better to follow the dictates of the grant to qualify for the funds than to follow the procurement regulations & lose the grant funds
 - Usually there is no conflict
 - Especially true for federal grants
 - Federal requirements are to follow the grant recipient's procurement policy unless Federal requirements are more stringent (OMB Circular A102 2.1)
 - Maryland regulations are typically more stringent than Federal regulations
 - So Maryland regulations generally prevail

Ideal Situation

- Perform procurement to identify the vendor(s) to include in a grant application
 - The procurement will precede the grant application (encourage Procurement Officer to be part of the grant proposal team!)
- After receive the grant award perform a procurement to determine which vendor(s) will be used to perform the grant requirements
 - When specific vendor is not named

The Ideal is Rarely Achieved

- Usually don't have the luxury of doing a procurement either before or after the grant application or award
- Doesn't mean just give up & pick who want

Procurement Options

- Contingency procurement
 - If anticipate future opportunity to submit a grant application
 - Should perform a procurement to identify the vendor(s) who will be included in the application
 - Must clearly identify that the procurement is conditional
 - Can't guarantee that there will actually be an opportunity to submit for a grant
 - Also can't guarantee that will win the grant
 - Selected vendor gets nothing if there is no grant award

Contingency Procurement

- Can do for single grant application
- Can do for a period of time to cover all applications filed during that period
 - Can be for a year
 - Can be for multiple years

Procurement Shortcuts

- Alternatives to a normal competitive procurement
 - Sole Source
 - Small procurement
 - Emergency
 - Small Procurement Reserve Program
 - Intergovernmental agreement (MOU)
 - Intergovernmental Cooperative Purchasing Agreement
 - Existing State contract
 - Preferred Provider

Sole Source Awards

- Misconception is that if a grant specifies a specific vendor for the grant funds that this produces an exemption
 - Instead it produces a sole source situation
 - Means a situation when only a single entity can provide the good or service that is required
 - Sole Source is a procurement method permitted under the State procurement law & regulations
 - So it's not a conflict
 - It is simply a justification for the sole source

Typical Sole Source Situation

- One or more entities are identified in the grant application as performing certain activities
- If grant is awarded the expectation is that this/these entity(ies) will perform what they were identified as doing
 - Sometimes the grant will specifically require this
 - Other times the grant will be silent on this issue

Typical Sole Source Situation

- If a grant requires that any/all specified entities perform the role that was described in the grant application, this is a sole source justification
- If grant is silent on this aspect either
 - Seek clarification from grantor
 - Use best judgment on intent of grantor

Typical Sole Source Situation

- Frequently a grant application does not require the identification of a specific vendor
- It just describes what activities will be performed, but not who will do them
 - In these situations the agency should do a procurement to determine which vendor(s) to use to perform the grant activities

Other Type of sole Source Situation

- Lack of time
- Most frequent comment
 - There is no time to conduct a procurement
 - The time frame between when the opportunity to apply for a grant is learned & when the application must be submitted is too short for a procurement
 - If do a procurement will miss the submission deadline
 - Don't want to miss out on chance to obtain the grant funds
 - So will make the procurement fit within the needed time frame

Other Type of sole Source Situation

- Frequently produces a situational sole source
 - Not a true sole source
 - But is the only vendor that can meet a time frame
 - Or the vendor deemed most likely to result in the acceptance of a grant application
 - With prior approval can use as a sole source justification

Alternatives to normal competitive procurement

- Small procurement
 - If anticipate can obtain a vendor for \$25,000 or less
 - Minimal specifications
 - Can award in 3 working days or less
 - Simplified contract
 - Simplified advertising of opportunity
- Caveats
 - Can't artificially divide need to make into multiple small procurements

Alternatives to normal competitive procurement

- Emergency procurement
 - Per COMAR 21.01.02.01 B (36)
 - Means a sudden and unexpected occurrence or condition which agency management reasonably could not foresee that requires an action to avoid or to mitigate serious damage to public health, safety or welfare
 - Can be construed to mean the loss of funds that would be available if a grant is awarded
 - Loss of funds is equivalent to loss of service which is detrimental to the public

Alternatives to normal competitive procurement

- Emergency procurement
 - Doesn't automatically mean all grant applications can produce an emergency
 - Has to be for significant activity
 - Has to really be unforeseen
 - Had the possibility of doing contingency procurement
 - Have to determine no other procurement method could achieve what is needed
 - Has to be reported to control agency and BPW over \$25,000

Alternatives to normal competitive procurement

- Interagency or Intergovernmental Agreements
 - Are generally exempt from the procurement regulations
 - Common nomenclature is Memorandum of Understanding (MOU)
 - Used when another Maryland State agency or another government at any level – state, local or federal- or sub-agencies of any government will actually provide what is needed
 - Can do directly or by contracting out

Alternatives to normal competitive procurement

- Interagency or Intergovernmental Agreements
 - Can do directly or by contracting out
 - In either case money is only paid if required deliverables are met
 - The government is on the hook to perform or not be paid, regardless of whether it has to pay subcontractors, etc.
 - Some MOUs are not exempt from MBE requirements
 - For 2005 & 2006 fiscal years all MOUs over \$100,000 must be reported by 10/1 to BPW& Dept of Legislative Services

Alternatives to normal competitive procurement

- Interagency or Intergovernmental Agreements
 - For 2005 & 2006 fiscal years all MOUs over \$100,000 must be reported by 10/1 to BPW& Dept of Legislative Services
 - Budget language requirement
 - All MOUs with public institutions of higher education over \$100,00 also have to be advertised in advance in the Contract Weekly & reported to individual budget committees
 - Budget bill requirement each year since 1999 FY

Alternatives to normal competitive procurement

- Intergovernmental Cooperative Purchasing Agreements
 - Need approval of Primary Procurement Unit
 - DGS
 - DBM
 - Treasurer
 - MDOT, DPSCS for their own purposes

Alternatives to normal competitive procurement

- Intergovernmental Cooperative Purchasing Agreements
 - Means can use a contractor selected under a procurement conducted by another government
 - Has some limitations
 - Generally as long as competitively procured & the contract is identified as being available for use by other governments it is OK to use
 - If primary procurement unit agrees
 - Until 10/1/2004 there is a \$250,000 minimum for the use of a contractor with the Federal government
 - After 10/1/2004 there is no minimum

Alternatives to normal competitive procurement

- Use of State wide contracts
 - DBM has a number of master contracts available for any state agency
 - Management Consulting Services (MCS)
 - Financial & Financial Related Auditing Services
 - IT Only
 - Technical Services Procurement (TSP)
 - Consulting Services Procurement (CSP)
 - Internet Services Provider (ISP)
 - Computers, printers and peripherals & software contract

Alternatives to normal competitive procurement

- Agencies can combine to do a joint procurement
 - One agency will do on behalf of another (others)
 - Can request that control agency obtain a new master contract

Alternatives to normal competitive procurement

- Preferred Providers
 - State Use Industries
 - Also exempt because a State entity
 - Blind Industries and Services of Maryland (BISM)
 - Certified Sheltered Workshops
 - Maryland Works is umbrella entity

Alternatives to normal competitive procurement

- Small Business Reserve Program
 - Limited to 22 State agencies
 - Goes into effect 10/1/2004
 - Designated procurements can only be awarded to certified small businesses
 - Business has to do no more than an average of \$2 million per year in sales/business
 - Certain other limitations
 - Businesses can register via DGS web site in less than 1/2 hour

Alternatives to normal competitive procurement

- Small Business Reserve Program
 - If have consultants, etc that would like to use
 - If individuals or small companies
 - Can encourage to register as a small business
 - If then designate a procurement for the Reserve Program only such small businesses can compete for the award
 - All other procurement rules & procedures still apply

22 Participating Agencies

- Departments of:

- Budget & Management
- Business & Economic Development
- Education
- Environment
- General Services
- Health & Mental Hygiene

- Departments of:

- Housing & Community Development
- Human Resources
- Juvenile Services
- Labor, Licensing & Regulation
- Natural Resources

22 Participating Agencies

- Departments of:

- Public Safety & Correctional Services
- Transportation
- (Port Commission)
- State Police

- Independent Agencies

- Insurance Administration
- Lottery
- Morgan University
- Stadium Authority
- State Retirement
- State Treasurer
- University System of Md.